

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:       Knoxville Ambulatory Surgery Center       )  
              Parcel ID #119-01843                        ) Knox County  
              Commercial Property                       )  
              Tax Year 2005                               )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$570,000	\$1,211,400	\$1,781,400	\$712,560

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 1, 2006 in Knoxville, Tennessee. In attendance at the hearing were registered agent Cameron Moore and Knox County Property Assessor's representatives Ralph E. Watson and Jim Beck.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of an owner-occupied surgical center located at 9300 Park West Blvd. in Knoxville, Tennessee.

The taxpayer contended that subject property should be valued at a maximum of \$1,326,400. In support of this position, the cost and income approaches were introduced into evidence. Mr. Moore maintained that the cost and income approaches support value indications of \$1,326,400 and \$1,131,400 respectively. In addition, Mr. Moore's exhibit contained listings of two office buildings for sale in Knoxville and a medical/senior/psychiatric center in Nashville.

The assessor contended that subject property should be valued at \$1,781,400. In support of this position, the cost approach as summarized by the property record card was introduced into evidence. In addition, the assessor noted the taxpayer's purchase of subject land in 1992 for \$532,500.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than



others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,511,600.

Since the taxpayer is appealing from the determination of the Knox County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the cost approach should receive greatest weight absent additional proof from the taxpayer. The administrative judge finds that the taxpayer's income approach cannot receive any weight for at least two reasons. First, no evidence whatsoever was introduced to substantiate the assumed capitalization rate of 10.68%. Second, no market data was introduced to substantiate that the assumed expenses are indicative of the market.

The administrative judge finds that the three listings cannot provide a basis of valuation. The administrative judge finds that the listings obviously do not constitute a sales comparison approach. Moreover, the listed properties differ from the subject in many key respects and would have to be adjusted if they theoretically rose to the level of comparable sales.

With respect to the cost approach, the administrative judge finds that the assessor's current land value of \$570,000 must be considered unrefuted. The administrative judge finds that the taxpayer did not introduce any vacant land sales to support the contended land value of \$384,800.

The administrative judge finds that the primary difference in the parties' valuation of the improvements concerned depreciation. Given the fact subject building was constructed in 1992, the administrative judge finds the taxpayer's assumed depreciation of 16% via Marshall & Swift more realistic than the 9% assumed on the property record card.



The administrative judge finds that the parties also differed somewhat in their assumed reproduction/replacement costs. The administrative judge finds that the taxpayer somewhat better substantiated its estimate.

Based upon the foregoing, the administrative judge finds that the cost approach supports a land value of \$570,000 and improvement value of \$941,600. This results in a total value of \$1,511,600.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$570,000	\$941,600	\$1,511,600	\$604,640

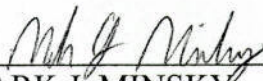
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of February, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Cameron Moore  
John R. Whitehead, Assessor of Property